(3)

BEFORE THE M.P. STATE ADMINISTRATIVE TRIBUNAL BENCH RAIPUR

WP(S) 5061/03

O.A. NO._____/2002

APPLICANT : 1. Upendra Kumar Gupta
Asstt. Teacher
Middle School, Libara
Block - Tamnar Distt. Raigarh

2. Dev Lal Kurrey
Asstt. Teacher /Superintendent
P.M.T. Hostel No. 2
Chakradharnagar
Distt. Raigarh

3. Smt. Anita Gabel
Asstt. Teacher
Govt. Girls Middle School
Chakradharnagar
Distt. Raigarh

VERSUS

NON-APPLICANT : 1. State of Chhattisgarh
through the Secretary
Department of Adivasi Vikas
D.K.S. Bhavan
Raipur (C.G.)

2. The Commissioner
Adivasi Vikas
Govt. of Chhattisgarh
D.K.S. Bhavan, Raipur (C.G.)

3. Asstt. Commissioner
Adivasi Vikas,
Raigarh

ORIGINAL APPLICATION UNDER SECTION 19 OF THE M.P. STATE ADMINISTRATIVE TRIBUNAL ACT, 1985

1. Particulars of the Applicant:

As detailed above in the cause title.

2. Particulars of the respondents:

As detailed above in the cause title.

(37)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 5061 of 2005

Petitioners : Upendra Kumar Gupta & others

Versus

Respondents : State of Chhattisgarh & others

**Single Bench**: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Manish Sharma, Advocate for the Petitioners.
Shri Utkarsh Verma, Govt. Advocate for the State/respondents.

ORDER

(27th October, 2006)

1. Learned counsel appearing for the petitioners submits that while working as Assistant Teacher, the petitioners had gone on training to improve their qualifications on their own expenses and acquired B. Ed. Examination Certificate prior to 1.3.1999.

2. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. /B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 (Annexure P/7) issued by the State Government of Madhya Pradesh.

3. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A.No. 1632/99, decided on 12.10.1999 wherein it is observed that the

circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

4. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B.Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

5. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

6. Accordingly, the writ petition is allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B.Ed./B.T.I. Examination Certificate on their own expenses and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge